

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 11-00279-01-CR-W-DGK
)	
DAMON L. COLLIER,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On November 16, 2011, an indictment was returned charging the defendant with being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(e)(1). Counsel for defendant filed a Motion for Determination of Mental Competency, pursuant to 18 U.S.C. § 4241, asking that defendant undergo a psychiatric or psychological examination and that a report be filed with the Court regarding the defendant's ability to understand the proceedings presently pending against him and to properly assist in his own defense (doc. #15). On December 30, 2011, the Court ordered the defendant undergo a psychiatric examination to determine his ability to stand trial (doc #16).

On April 3, 2011, the Court held a hearing on the issue of the defendant's competency to stand trial. The parties stipulated that the Court could consider the Forensic Evaluation of March 16, 2012, prepared by David M. Szyhowski, Psy.D, Forensic Studies Unit Psychologist, of the Metropolitan Correctional Center in Chicago, Illinois. No other evidence was offered on the issue of defendant's competency to stand trial.

The defendant was diagnosed with Major Depressive Disorder, Recurrent, Mild, In Partial Remission, Cannabis Dependence, In Partial Remission, Phencyclidine Dependence, In Partial Remission; and Antisocial Personality Disorder (Forensic Evaluation at 7). The evaluator concluded that:

[a]t the present time, the defendant presents with symptoms of depression and substance abuse. However, this does not appear to negatively impact his ability to understand the legal proceedings and to properly assist his counsel. His symptoms of substance abuse are currently well-managed through his environment and his symptoms of depression are well managed through a course of pharmacotherapy, with which he is compliant. These symptoms do not appear to be having any significant negative impact on his competence related abilities. His competency related abilities do not appear to be compromised by a severe mental disease or defect at this time. He presently appears appropriate for continuation of criminal proceedings.

(Forensic Evaluation at 9) Based upon the information before the Court, it is

RECOMMENDED that the Court, after making an independent review of the record and applicable law, enter an order finding that defendant Damon Collier is not currently suffering from a mental disease or defect which would prevent him from understanding the nature and consequences of the proceedings against him or assisting in his defense and that he is competent to stand trial.

Counsel are reminded they have fourteen days from the date of this Report and Recommendation within which to file and serve objections. A failure to file and serve timely objections shall bar an attack on appeal of the factual findings in this Report and Recommendation which are accepted or adopted by the district judge, except on grounds of plain error or manifest injustice.

/s/ Sarah W. Hays
SARAH W. HAYS
UNITED STATES MAGISTRATE JUDGE